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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,505	03/15/2004	Paul A. Bristow	3699	9495

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EXAMINER

DANIELS, MATTHEW J

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/800,505

Applicant(s)

BRISTOW ET AL.

Examiner

Matthew J. Daniels

Art Unit

1732

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See the enclosed response. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-7, 9-16, 20, 23-25, 27, 29, 30, 33 and 34.
Claim(s) withdrawn from consideration: 35-48.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Response to Arguments and Request for Reconsideration

Applicant's arguments filed 22 September 2005 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

- a) None of the cited references fall in the same primary class and subclass
- b) Holtrop's invention is not a headliner, nor is it a process for forming a headliner, but a laminate that can be molded into a headliner
- c) Holtrop and Breezer are in conflict, and neither teaches forming an interior compartment for head impact cushioning.
- d) Applicants claim use of a frame to convey the sheets into an oven, and then into a mold. The frame need not be a tenter frame.
- e) Applicants' process does not claim an ejector, but the process of ejecting
- f) Applicants are not claiming an air bag. This reference without doubt makes it clear that the Examiner has not met criteria B (the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination).
- g) Juriga teaches a process in which multiple layers are heated and compressed, while Applicants' process utilizes compression laminating and molding with matched molds, forming a compartmentalized headliner. Juriga's process is not similar to Applicants'
- h) None of the cited art is from the same class and subclass

These arguments are not persuasive for the following reasons:

- a and h) While Patent Office classification of references and the cross-references in the official search notes of the class definitions are some evidence of "nonanalogy" or "analogy"

Art Unit: 1732

respectively, the court has found "the similarities and differences in structure and function of the inventions to carry far greater weight." See MPEP 2141.01(a) and *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973). The Examiner submits that the test for whether a reference is analogous prior art is not only the classification, but a) whether the reference is in the Applicant's field of endeavor or b) if the subject matter disclosed is relevant to the particular problem with which the inventor is involved. The Examiner submits that the cited references fulfill one or both of these criteria. Additionally, the arguments do not appear to set forth which references, or for what reasons, the Applicant asserts the references to be non-analogous prior art.

b) The Examiner respectfully disagrees with the assertion presented. Holtrop teaches direct integration of fabric (column 4), and the Examiner therefore submits that the product is in a usable form as provided by Holtrop.

c and f) Holtrop need not necessarily teach that the interior compartment provides head impact cushioning. The Examiner submits that this aspect is inherent. The Examiner further provided the reference from Timothy to support the inherency statement.

d) It is unclear to the Examiner how the claimed method is asserted to be different from that of Steward. The Applicants' arguments do not appear to assert that Steward does not teach a frame, but only that the claim is more broad than the tenter frames taught by Steward. The Examiner submits that the use of frames, such as those of Steward, was a known and obvious aspect in the art to avoid wrinkling.

e) The arguments directed toward ejection of a part are not clear to the Examiner. It is submitted that parts are necessarily and inherently removed from Holtrop's molds in order to allow the

Art Unit: 1732

mold to be used repeatedly in the many embodiments taught by Holtrop. Ejection of a part from a mold would have been an obvious aspect in order to improve the safety of the operator by avoiding placing hands or implements into the mold cavity to effect removal. Additionally, it is unclear to the Examiner how this materially changes the claimed method of making a headliner. The headliner is imparted with the same characteristics and properties in either case when it is ejected or removed.

g) It is unclear how Juriga's process is asserted to be dissimilar to Applicants' claimed process. Holtrop teaches and suggests laminating layers (4:1-50) by application of heat and pressure (4:19) prior to twin sheet thermoforming (4:51). Juriga teaches such a process, incorporating matched molds (Fig. 4, Item 142) and heating (Fig. 4, Item 130).

Additionally, the Examiner cited "Improved materials promise new opportunities for GMT" to indicate the level of ordinary skill in the art. The Examiner submits that this reference, while not relied upon specifically, provides evidence of many of the motivating statements recited in the rejections. Specifically, see the following portions of the article on page 50 (reproduced for clarity on the following page):

Azdel SuperLite is available in finished sheet, ready for heating and moulding. It is usually formed using a single layer with 100% tool coverage, using low pressure (<5 bar) and total cycle times well below a minute. Because of the low pressure production tooling can be made out of aluminium and fast prototype tooling can be produced within days by using wood, at only a fraction of the cost of high pressure tools. It is also possible to incorporate an outer layer of adhesive or hot melt that is compatible with a range of fabrics and automotive coverings during the manufacturing process, which will enable fabricators to incorporate a fabric covering in a one step moulding operation.

The material can be processed on standard moulding lines having infrared or hot air ovens and low pressure moulding presses. Closing speed of the press is not a critical parameter.

Very high part stiffness can be obtained by moulding sandwich structures with Azdel SuperLite layers around a foam core. As core material Noryl EF, a polyphenylene oxide (PPO)/polystyrene (PS) foam with good mechanical properties can be used, also polyurethane (PU) foam and EPP foam cores can create an all PP based concept. Panels can be moulded in one operation, including surface covers, with weights below 2 kg/m². These sandwich concepts can be used for load floors and other parts where low weight and extremely high stiffness are required. Once familiar with the concept, designers will find many more applications for it.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Thursday, 7:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJD 10/28/05

MJD

Stefan Staicovici
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PRIMARY EXAMINER
10/28/05
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